

Adopted	Rejected
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COMMITTEE REPORT

YES:	8
NO:	5

MR. SPEAKER:

*Your Committee on Labor and Employment, to which was referred House Bill 1413, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

1 Page 1, between the enacting clause and line 1, begin a new
 2 paragraph and insert:
 3 "SECTION 1. IC 22-3-3-4 IS AMENDED TO READ AS
 4 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. (a) After an injury
 5 and prior to an adjudication of permanent impairment, the employer
 6 shall furnish or cause to be furnished, free of charge to the employee,
 7 an attending physician for the treatment of his injuries, and in addition
 8 thereto such surgical, hospital and nursing services and supplies as the
 9 attending physician or the worker's compensation board may deem
 10 necessary. If the employee is requested or required by the employer to
 11 submit to treatment outside the county of employment, the employer
 12 shall also pay the reasonable expense of travel, food, and lodging
 13 necessary during the travel, but not to exceed the amount paid at the
 14 time of the travel by the state to its employees under the state travel
 15 policies and procedures established by the department of
 16 administration and approved by the state budget agency.

1 (b) During the period of temporary total disability resulting from the
2 injury, the employer shall furnish the physician services, and supplies,
3 and the worker's compensation board may, on proper application of
4 either party, require that treatment by the physician and services and
5 supplies be furnished by or on behalf of the employer as the worker's
6 compensation board may deem reasonably necessary.

7 (c) **No representative of the employer or insurance carrier,**
8 **including case managers or rehabilitation nurses, may be present**
9 **at any treatment of an injured employee without the express**
10 **written consent of the employee and the treating medical**
11 **personnel. At the time of any medical treatment that a**
12 **representative of the employer wishes to attend, the representative**
13 **of the employer shall inform the injured employee and treating**
14 **medical personnel that their written consent is required before the**
15 **attendance of the employer's representative. The employee's**
16 **compensation and benefits may not be jeopardized in any way due**
17 **to the employer's failure or refusal to complete a written waiver**
18 **allowing the attendance of the employer's representative. The**
19 **employer's representative may not in any way cause the employee**
20 **to believe that the employee's compensation and benefits will be**
21 **terminated if the employee fails or refuses to complete a written**
22 **waiver allowing the attendance of the employer's representative.**
23 **The written waivers shall be executed on forms prescribed by the**
24 **board.**

25 ~~(c)~~ (d) After an employee's injury has been adjudicated by
26 agreement or award on the basis of permanent partial impairment and
27 within the statutory period for review in such case as provided in
28 section 27 of this chapter, the employer may continue to furnish a
29 physician or surgeon and other medical services and supplies, and the
30 worker's compensation board may within the statutory period for
31 review as provided in section 27 of this chapter, on a proper application
32 of either party, require that treatment by that physician and other
33 medical services and supplies be furnished by and on behalf of the
34 employer as the worker's compensation board may deem necessary to
35 limit or reduce the amount and extent of the employee's impairment.
36 The refusal of the employee to accept such services and supplies, when
37 provided by or on behalf of the employer, shall bar the employee from
38 all compensation otherwise payable during the period of the refusal,

1 and his right to prosecute any proceeding under IC 22-3-2 through
 2 IC 22-3-6 shall be suspended and abated until the employee's refusal
 3 ceases. The employee must be served with a notice setting forth the
 4 consequences of the refusal under this section. The notice must be in
 5 a form prescribed by the worker's compensation board. No
 6 compensation for permanent total impairment, permanent partial
 7 impairment, permanent disfigurement, or death shall be paid or payable
 8 for that part or portion of the impairment, disfigurement, or death
 9 which is the result of the failure of the employee to accept the
 10 treatment, services, and supplies required under this section. However,
 11 an employer may at any time permit an employee to have treatment for
 12 his injuries by spiritual means or prayer in lieu of the physician or
 13 surgeon and other medical services and supplies required under this
 14 section.

15 ~~(d)~~ (e) If, because of an emergency, or because of the employer's
 16 failure to provide an attending physician or surgical, hospital, or
 17 nursing services and supplies, or treatment by spiritual means or
 18 prayer, as required by this section, or because of any other good reason,
 19 a physician other than that provided by the employer treats the injured
 20 employee during the period of the employee's temporary total
 21 disability, or necessary and proper surgical, hospital, or nursing
 22 services and supplies are procured within the period, the reasonable
 23 cost of those services and supplies shall, subject to the approval of the
 24 worker's compensation board, be paid by the employer.

25 ~~(e)~~ (f) Regardless of when it occurs, where a compensable injury
 26 results in the amputation of a body part, the enucleation of an eye, or
 27 the loss of natural teeth, the employer shall furnish an appropriate
 28 artificial member, braces, and prosthodontics. The cost of repairs to or
 29 replacements for the artificial members, braces, or prosthodontics that
 30 result from a compensable injury pursuant to a prior award and are
 31 required due to either medical necessity or normal wear and tear,
 32 determined according to the employee's individual use, but not abuse,
 33 of the artificial member, braces, or prosthodontics, shall be paid from
 34 the second injury fund upon order or award of the worker's
 35 compensation board. The employee is not required to meet any other
 36 requirement for admission to the second injury fund.

37 ~~(f)~~ (g) If an accident arising out of and in the course of employment
 38 after June 30, 1997, results in the loss of or damage to an artificial

1 member, a brace, an implant, eyeglasses, prosthodontics, or other
 2 medically prescribed device, the employer shall repair the artificial
 3 member, brace, implant, eyeglasses, prosthodontics, or other medically
 4 prescribed device or furnish an identical or a reasonably equivalent
 5 replacement.

6 ~~(g)~~ **(h)** This section may not be construed to prohibit an agreement
 7 between an employer and the employer's employees that has the
 8 approval of the board and that binds the parties to:

9 (1) medical care furnished by health care providers selected by
 10 agreement before or after injury; or

11 (2) the findings of a health care provider who was chosen by
 12 agreement.

13 SECTION 2. IC 22-3-3-6 IS AMENDED TO READ AS FOLLOWS

14 [EFFECTIVE JULY 1, 1999]: Sec. 6. (a) After an injury and during the
 15 period of claimed resulting disability or impairment, the employee, if
 16 ~~so~~ requested by the employee's employer or ordered by the industrial
 17 board, shall submit to an examination at reasonable times and places
 18 by a duly qualified physician or surgeon designated and paid by the
 19 employer or by order of the worker's compensation board. The
 20 employee shall have the right to have present at any such examination
 21 any duly qualified physician or surgeon provided and paid for by the
 22 employee. No fact communicated to, or otherwise learned by, any
 23 physician or surgeon who may have attended or examined the
 24 employee, or who may have been present at any examination, shall be
 25 privileged, either in the hearings provided for in IC 22-3-2 through
 26 IC 22-3-6, or in any action at law brought to recover damages against
 27 any employer who is subject to the compensation provisions of
 28 IC 22-3-2 through IC 22-3-6. If the employee refuses to submit to or in
 29 any way obstructs such examinations, the employee's right to
 30 compensation and his right to take or prosecute any proceedings under
 31 IC 22-3-2 through IC 22-3-6 shall be suspended until such refusal or
 32 obstruction ceases. No compensation shall at any time be payable for
 33 the period of suspension unless in the opinion of the worker's
 34 compensation board the circumstances justified the refusal or
 35 obstruction. The employee must be served with a notice setting forth
 36 the consequences of the refusal under this subsection. The notice must
 37 be in a form prescribed by the board.

38 (b) Any employer requesting an examination of any employee

1 residing within Indiana shall pay, in advance of the time fixed for the
2 examination, sufficient money to defray the necessary expenses of
3 travel by the most convenient means to and from the place of
4 examination, and the cost of meals and lodging necessary during the
5 travel. If the method of travel is by automobile, the mileage rate to be
6 paid by the employer shall be the rate currently being paid by the state
7 to its employees under the state travel policies and procedures
8 established by the department of administration and approved by the
9 budget agency. If such examination or travel to or from the place of
10 examination causes any loss of working time on the part of the
11 employee, the employer shall reimburse the employee for such loss of
12 wages upon the basis of the employee's average daily wage. When any
13 employee injured in Indiana moves outside Indiana, the travel expense
14 and the cost of meals and lodging necessary during the travel payable
15 under this section shall be paid from the point in Indiana nearest to the
16 employee's then residence to the place of examination. No travel and
17 other expense shall be paid for any travel and other expense required
18 outside Indiana.

19 (c) A duly qualified physician or surgeon provided and paid for by
20 the employee may be present at an examination if the employee so
21 desires. In all cases where the examination is made by a physician or
22 surgeon engaged by the employer and the injured employee has no
23 physician or surgeon present at such examination, it shall be the duty
24 of the physician or surgeon making the examination to deliver to the
25 injured employee, or the employee's representative, a statement in
26 writing of the conditions evidenced by such examination. The
27 statement shall disclose all facts that are reported by such physician or
28 surgeon to the employer. Such statement shall be furnished to the
29 employee or the employee's representative, as soon as practicable, but
30 not later than thirty (30) days before the time the case is set for hearing.
31 The statement may be submitted by either party as evidence by that
32 physician or surgeon at a hearing before the worker's compensation
33 board if the statement meets the requirements of subsection ~~(e)~~ (f). If
34 such physician or surgeon fails or refuses to furnish the employee or
35 the employee's representative with such statement thirty (30) days
36 before the hearing, then the statement may not be submitted as
37 evidence, and such physician or surgeon shall not be permitted to
38 testify before the worker's compensation board as to any facts learned

1 in such examination. All of the requirements of this subsection apply
 2 to all subsequent examinations requested by the employer.

3 **(d) No representative of the employer or insurance carrier,**
 4 **including case managers or rehabilitation nurses, may be present**
 5 **at any examination of an injured employee without the express**
 6 **written consent of the employee and the treating medical**
 7 **personnel. At the time of any medical examination that a**
 8 **representative of the employer wishes to attend, the representative**
 9 **of the employer shall inform the injured employee and treating**
 10 **medical personnel that their written consent is required before the**
 11 **attendance of the employer's representative. The employee's**
 12 **compensation and benefits may not be jeopardized in any way due**
 13 **to the employer's failure or refusal to complete a written waiver**
 14 **allowing the attendance of the employer's representative. The**
 15 **employer's representative may not in any way cause the employee**
 16 **to believe that the employee's compensation and benefits will be**
 17 **terminated if the employee fails or refuses to complete a written**
 18 **waiver allowing the attendance of the employer's representative.**
 19 **The written waivers shall be executed on forms prescribed by the**
 20 **board.**

21 ~~(d)~~ **(e)** In all cases where an examination of an employee is made by
 22 a physician or surgeon engaged by the employee, and the employer has
 23 no physician or surgeon present at such examination, it shall be the
 24 duty of the physician or surgeon making the examination to deliver to
 25 the employer or the employer's representative a statement in writing of
 26 the conditions evidenced by such examination. The statement shall
 27 disclose all facts that are reported by such physician or surgeon to the
 28 employee. Such statement shall be furnished to the employer or the
 29 employer's representative as soon as practicable, but not later than
 30 thirty (30) days before the time the case is set for hearing. The
 31 statement may be submitted by either party as evidence by that
 32 physician or surgeon at a hearing before the worker's compensation
 33 board if the statement meets the requirements of subsection ~~(e)~~ **(f)**. If
 34 such physician or surgeon fails or refuses to furnish the employer, or
 35 the employer's representative, with such statement thirty (30) days
 36 before the hearing, then the statement may not be submitted as
 37 evidence, and such physician or surgeon shall not be permitted to
 38 testify before the industrial board as to any facts learned in such

1 examination. All of the requirements of this subsection apply to all
 2 subsequent examinations made by a physician or surgeon engaged by
 3 the employee.

4 ~~(e)~~ (f) All statements of physicians or surgeons required by this
 5 section, whether those engaged by employee or employer, shall contain
 6 the following information:

7 (1) The history of the injury, or claimed injury, as given by the
 8 patient.

9 (2) The diagnosis of the physician or surgeon concerning the
 10 patient's physical or mental condition.

11 (3) The opinion of the physician or surgeon concerning the causal
 12 relationship, if any, between the injury and the patient's physical
 13 or mental condition, including the physician's or surgeon's reasons
 14 for the opinion.

15 (4) The opinion of the physician or surgeon concerning whether
 16 the injury or claimed injury resulted in a disability or impairment
 17 and, if so, the opinion of the physician or surgeon concerning the
 18 extent of the disability or impairment and the reasons for the
 19 opinion.

20 (5) The original signature of the physician or surgeon.

21 Notwithstanding any hearsay objection, the worker's compensation
 22 board shall admit into evidence a statement that meets the requirements
 23 of this subsection unless the statement is ruled inadmissible on other
 24 grounds.

25 ~~(f)~~ (g) Delivery of any statement required by this section may be
 26 made to the attorney or agent of the employer or employee and such
 27 action shall be construed as delivery to the employer or employee.

28 ~~(g)~~ (h) Any party may object to a statement on the basis that the
 29 statement does not meet the requirements of subsection ~~(e)~~ (f). The
 30 objecting party must give written notice to the party providing the
 31 statement and specify the basis for the objection. Notice of the
 32 objection must be given no later than twenty (20) days before the
 33 hearing. Failure to object as provided in this subsection precludes any
 34 further objection as to the adequacy of the statement under subsection
 35 ~~(e)~~ (f).

36 ~~(h)~~ (i) The employer upon proper application, or the worker's
 37 compensation board, shall have the right in any case of death to require
 38 an autopsy at the expense of the party requesting the same. If, after a

1 hearing, the worker's compensation board orders an autopsy and such
 2 autopsy is refused by the surviving spouse or next of kin, then any
 3 claim for compensation on account of such death shall be suspended
 4 and abated during such refusal. The surviving spouse or dependent
 5 must be served with a notice setting forth the consequences of the
 6 refusal under this subsection. The notice must be in a form prescribed
 7 by the worker's compensation board. No autopsy, except one performed
 8 by or on the authority or order of the coroner in the discharge of the
 9 coroner's duties, shall be held in any case by any person, without notice
 10 first being given to the surviving spouse or next of kin, if they reside in
 11 Indiana or their whereabouts can reasonably be ascertained, of the time
 12 and place thereof, and reasonable time and opportunity given such
 13 surviving spouse or next of kin to have a representative or
 14 representatives present to witness same. However, if such notice is not
 15 given, all evidence obtained by such autopsy shall be suppressed on
 16 motion duly made to the worker's compensation board."

17 Page 9, line 34, delete "two" and insert "**four**".

18 Page 9, line 34, after "hundred" insert "**fifty**".

19 Page 9, line 34, delete "(\$1,200)" and insert "(\$**1,450**)".

20 Page 9, line 35, delete "one" and insert "**two**".

21 Page 9, line 36, delete "eight hundred dollars (\$1,800)" and insert
 22 "**dollars (\$2,000)**".

23 Page 9, line 38, delete "two" and insert "**six**".

24 Page 9, line 38, delete "(\$2,200)" and insert "(\$**2,600**)".

25 Page 10, line 2, delete "three" and insert "**eight**".

26 Page 10, line 2, after "hundred" insert "**fifty**".

27 Page 10, line 2, delete "(\$1,300)" and insert "(\$**1,850**)".

28 Page 10, line 4, after "thousand" insert "**seven hundred**".

29 Page 10, line 4, delete "(\$2,000)" and insert "(\$**2,700**)".

30 Page 10, line 5, delete "two" and insert "**three**".

31 Page 10, line 6, delete "(\$2,400)" and insert "(\$**3,400**)".

32 Page 10, line 11, delete "one" and insert "**two**".

33 Page 10, line 11, delete "(\$1,400)" and insert "(\$**2,400**)".

34 Page 10, line 13, after "(50)," delete "two" and insert "**three**".

35 Page 10, line 13, after "thousand" delete "two" and insert "**five**".

36 Page 10, line 14, delete "(\$2,200)" and insert "(\$**3,500**)".

37 Page 10, line 15, delete "two" and insert "**four**".

38 Page 10, line 15, delete "six" and insert "**four**".

1 Page 10, line 16, delete "\$2,600" and insert "\$4,400".

2 Page 18, after line 8, begin a new paragraph and insert:

3 "SECTION 5. IC 22-3-7-16 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 16. (a) Compensation
5 shall be allowed on account of disablement from occupational disease
6 resulting in only temporary total disability to work or temporary partial
7 disability to work beginning with the eighth day of such disability
8 except for the medical benefits provided for in section 17 of this
9 chapter. Compensation shall be allowed for the first seven (7) calendar
10 days only as provided in this section. The first weekly installment of
11 compensation for temporary disability is due fourteen (14) days after
12 the disability begins. Not later than fifteen (15) days from the date that
13 the first installment of compensation is due, the employer or the
14 employer's insurance carrier shall tender to the employee or to the
15 employee's dependents, with all compensation due, a properly prepared
16 compensation agreement in a form prescribed by the board. Whenever
17 an employer or the employer's insurance carrier denies or is not able to
18 determine liability to pay compensation or benefits, the employer or the
19 employer's insurance carrier shall notify the worker's compensation
20 board and the employee in writing on a form prescribed by the worker's
21 compensation board not later than thirty (30) days after the employer's
22 knowledge of the claimed disablement. If a determination of liability
23 cannot be made within thirty (30) days, the worker's compensation
24 board may approve an additional thirty (30) days upon a written request
25 of the employer or the employer's insurance carrier that sets forth the
26 reasons that the determination could not be made within thirty (30)
27 days and states the facts or circumstances that are necessary to
28 determine liability within the additional thirty (30) days. More than
29 thirty (30) days of additional time may be approved by the worker's
30 compensation board upon the filing of a petition by the employer or the
31 employer's insurance carrier that sets forth:

- 32 (1) the extraordinary circumstances that have precluded a
33 determination of liability within the initial sixty (60) days;
34 (2) the status of the investigation on the date the petition is filed;
35 (3) the facts or circumstances that are necessary to make a
36 determination; and
37 (4) a timetable for the completion of the remaining investigation.

38 An employer who fails to comply with this section is subject to a civil

1 penalty of fifty dollars (\$50), to be assessed and collected by the board
2 upon notice and hearing. Civil penalties collected under this section
3 shall be deposited in the state general fund.

4 (b) Once begun, temporary total disability benefits may not be
5 terminated by the employer unless:

6 (1) the employee has returned to work;

7 (2) the employee has died;

8 (3) the employee has refused to undergo a medical examination
9 under section 20 of this chapter;

10 (4) the employee has received five hundred (500) weeks of
11 temporary total disability benefits or has been paid the maximum
12 compensation allowable under section 19 of this chapter; or

13 (5) the employee is unable or unavailable to work for reasons
14 unrelated to the compensable disease.

15 In all other cases the employer must notify the employee in writing of
16 the employer's intent to terminate the payment of temporary total
17 disability benefits, and of the availability of employment, if any, on a
18 form approved by the board. If the employee disagrees with the
19 proposed termination, the employee must give written notice of
20 disagreement to the board and the employer within seven (7) days after
21 receipt of the notice of intent to terminate benefits. If the board and
22 employer do not receive a notice of disagreement under this section,
23 the employee's temporary total disability benefits shall be terminated.
24 Upon receipt of the notice of disagreement, the board shall immediately
25 contact the parties, which may be by telephone or other means and
26 attempt to resolve the disagreement. If the board is unable to resolve
27 the disagreement within ten (10) days of receipt of the notice of
28 disagreement, the board shall immediately arrange for an evaluation of
29 the employee by an independent medical examiner. The independent
30 medical examiner shall be selected by mutual agreement of the parties
31 or, if the parties are unable to agree, appointed by the board under
32 IC 22-3-4-11. If the independent medical examiner determines that the
33 employee is no longer temporarily disabled or is still temporarily
34 disabled but can return to employment that the employer has made
35 available to the employee, or if the employee fails or refuses to appear
36 for examination by the independent medical examiner, temporary total
37 disability benefits may be terminated. If either party disagrees with the
38 opinion of the independent medical examiner, the party shall apply to

1 the board for a hearing under section 27 of this chapter.

2 (c) An employer is not required to continue the payment of
3 temporary total disability benefits for more than fourteen (14) days
4 after the employer's proposed termination date unless the independent
5 medical examiner determines that the employee is temporarily disabled
6 and unable to return to any employment that the employer has made
7 available to the employee.

8 (d) If it is determined that as a result of this section temporary total
9 disability benefits were overpaid, the overpayment shall be deducted
10 from any benefits due the employee under this section and, if there are
11 no benefits due the employee or the benefits due the employee do not
12 equal the amount of the overpayment, the employee shall be
13 responsible for paying any overpayment which cannot be deducted
14 from benefits due the employee.

15 (e) For disablements occurring on and after April 1, 1951, and prior
16 to July 1, 1971, from occupational disease resulting in temporary total
17 disability for any work, there shall be paid to the disabled employee
18 during such temporary total disability a weekly compensation equal to
19 sixty percent (60%) of the employee's average weekly wages for a
20 period not to exceed five hundred (500) weeks. Compensation shall be
21 allowed for the first seven (7) calendar days only if the disability
22 continues for longer than twenty-eight (28) days.

23 For disablements occurring on and after July 1, 1971, and prior to
24 July 1, 1974, from occupational disease resulting in temporary total
25 disability for any work, there shall be paid to the disabled employee
26 during such temporary total disability a weekly compensation equal to
27 sixty percent (60%) of the employee's average weekly wages, as
28 defined in section 19 of this chapter, for a period not to exceed five
29 hundred (500) weeks. Compensation shall be allowed for the first seven
30 (7) calendar days only if the disability continues for longer than
31 twenty-eight (28) days.

32 For disablements occurring on and after July 1, 1974, and before
33 July 1, 1976, from occupational disease resulting in temporary total
34 disability for any work, there shall be paid to the disabled employee
35 during such temporary total disability a weekly compensation equal to
36 sixty-six and two-thirds percent (66 2/3%) of the employee's average
37 weekly wages, up to one hundred thirty-five dollars (\$135) average
38 weekly wages, as defined in section 19 of this chapter, for a period not

1 to exceed five hundred (500) weeks. Compensation shall be allowed for
2 the first seven (7) calendar days only if the disability continues for
3 longer than twenty-one (21) days.

4 For disablements occurring on and after July 1, 1976, from
5 occupational disease resulting in temporary total disability for any
6 work, there shall be paid to the disabled employee during the temporary
7 total disability weekly compensation equal to sixty-six and two-thirds
8 percent ($66\frac{2}{3}\%$) of the employee's average weekly wages, as defined
9 in section 19 of this chapter, for a period not to exceed five hundred
10 (500) weeks. Compensation shall be allowed for the first seven (7)
11 calendar days only if the disability continues for longer than twenty-one
12 (21) days.

13 (f) For disablements occurring on and after April 1, 1951, and prior
14 to July 1, 1971, from occupational disease resulting in temporary
15 partial disability for work, there shall be paid to the disabled employee
16 during such disability a weekly compensation equal to sixty percent
17 (60%) of the difference between the employee's average weekly wages
18 and the weekly wages at which the employee is actually employed after
19 the disablement, for a period not to exceed three hundred (300) weeks.
20 Compensation shall be allowed for the first seven (7) calendar days
21 only if the disability continues for longer than twenty-eight (28) days.
22 In case of partial disability after the period of temporary total disability,
23 the later period shall be included as part of the maximum period
24 allowed for partial disability.

25 For disablements occurring on and after July 1, 1971, and prior to
26 July 1, 1974, from occupational disease resulting in temporary partial
27 disability for work, there shall be paid to the disabled employee during
28 such disability a weekly compensation equal to sixty percent (60%) of
29 the difference between the employee's average weekly wages, as
30 defined in section 19 of this chapter, and the weekly wages at which the
31 employee is actually employed after the disablement, for a period not
32 to exceed three hundred (300) weeks. Compensation shall be allowed
33 for the first seven (7) calendar days only if the disability continues for
34 longer than twenty-eight (28) days. In case of partial disability after the
35 period of temporary total disability, the latter period shall be included
36 as a part of the maximum period allowed for partial disability.

37 For disablements occurring on and after July 1, 1974, from
38 occupational disease resulting in temporary partial disability for work,

1 there shall be paid to the disabled employee during such disability a
2 weekly compensation equal to sixty-six and two-thirds percent (66
3 2/3%) of the difference between the employee's average weekly wages,
4 as defined in section 19 of this chapter, and the weekly wages at which
5 he is actually employed after the disablement, for a period not to
6 exceed three hundred (300) weeks. Compensation shall be allowed for
7 the first seven (7) calendar days only if the disability continues for
8 longer than twenty-one (21) days. In case of partial disability after the
9 period of temporary total disability, the latter period shall be included
10 as a part of the maximum period allowed for partial disability.

11 (g) For disabilities occurring on and after April 1, 1951, and prior
12 to April 1, 1955, from occupational disease in the following schedule,
13 the employee shall receive in lieu of all other compensation, on account
14 of such disabilities, a weekly compensation of sixty percent (60%) of
15 the employee's average weekly wage; for disabilities occurring on and
16 after April 1, 1955, and prior to July 1, 1971, from occupational disease
17 in the following schedule, the employee shall receive in addition to
18 disability benefits not exceeding twenty-six (26) weeks on account of
19 said occupational disease a weekly compensation of sixty percent
20 (60%) of the employee's average weekly wages.

21 For disabilities occurring on and after July 1, 1971, and before July
22 1, 1977, from occupational disease in the following schedule, the
23 employee shall receive in addition to disability benefits not exceeding
24 twenty-six (26) weeks on account of said occupational disease a weekly
25 compensation of sixty percent (60%) of his average weekly wages not
26 to exceed one hundred dollars (\$100) average weekly wages, for the
27 period stated for such disabilities respectively.

28 For disabilities occurring on and after July 1, 1977, and before July
29 1, 1979, from occupational disease in the following schedule, the
30 employee shall receive in addition to disability benefits not exceeding
31 twenty-six (26) weeks on account of the occupational disease a weekly
32 compensation of sixty percent (60%) of the employee's average weekly
33 wages, not to exceed one hundred twenty-five dollars (\$125) average
34 weekly wages, for the period stated for the disabilities.

35 For disabilities occurring on and after July 1, 1979, and before July
36 1, 1988, from occupational disease in the following schedule, the
37 employee shall receive in addition to disability benefits, not exceeding
38 fifty-two (52) weeks on account of the occupational disease, a weekly

1 compensation of sixty percent (60%) of the employee's average weekly
 2 wages, not to exceed one hundred twenty-five dollars (\$125) average
 3 weekly wages, for the period stated for the disabilities.

4 For disabilities occurring on and after July 1, 1988, and before July
 5 1, 1989, from occupational disease in the following schedule, the
 6 employee shall receive in addition to disability benefits, not exceeding
 7 seventy-eight (78) weeks on account of the occupational disease, a
 8 weekly compensation of sixty percent (60%) of the employee's average
 9 weekly wages, not to exceed one hundred sixty-six dollars (\$166)
 10 average weekly wages, for the period stated for the disabilities.

11 For disabilities occurring on and after July 1, 1989, and before July
 12 1, 1990, from occupational disease in the following schedule, the
 13 employee shall receive in addition to disability benefits, not exceeding
 14 seventy-eight (78) weeks on account of the occupational disease, a
 15 weekly compensation of sixty percent (60%) of the employee's average
 16 weekly wages, not to exceed one hundred eighty-three dollars (\$183)
 17 average weekly wages, for the period stated for the disabilities.

18 For disabilities occurring on and after July 1, 1990, and before July
 19 1, 1991, from occupational disease in the following schedule, the
 20 employee shall receive in addition to disability benefits, not exceeding
 21 seventy-eight (78) weeks on account of the occupational disease, a
 22 weekly compensation of sixty percent (60%) of the employee's average
 23 weekly wages, not to exceed two hundred dollars (\$200) average
 24 weekly wages, for the period stated for the disabilities.

25 (1) Amputations: For the loss by separation, of the thumb, sixty
 26 (60) weeks; of the index finger, forty (40) weeks; of the second
 27 finger, thirty-five (35) weeks; of the third or ring finger, thirty
 28 (30) weeks; of the fourth or little finger, twenty (20) weeks; of the
 29 hand by separation below the elbow, two hundred (200) weeks; of
 30 the arm above the elbow joint, two hundred fifty (250) weeks; of
 31 the big toe, sixty (60) weeks; of the second toe, thirty (30) weeks;
 32 of the third toe, twenty (20) weeks; of the fourth toe, fifteen (15)
 33 weeks; of the fifth or little toe, ten (10) weeks; of the foot below
 34 the knee joint, one hundred fifty (150) weeks; and of the leg
 35 above the knee joint, two hundred (200) weeks. The loss of more
 36 than one (1) phalange of a thumb or toe shall be considered as the
 37 loss of the entire thumb or toe. The loss of more than two (2)
 38 phalanges of a finger shall be considered as the loss of the entire

1 finger. The loss of not more than one (1) phalange of a thumb or
2 toe shall be considered as the loss of one-half (1/2) of the thumb
3 or toe and compensation shall be paid for one-half (1/2) of the
4 period for the loss of the entire thumb or toe. The loss of not more
5 than two (2) phalanges of a finger shall be considered as the loss
6 of one-half (1/2) the finger and compensation shall be paid for
7 one-half (1/2) of the period for the loss of the entire finger.

8 (2) Loss of Use: The total permanent loss of the use of an arm,
9 hand, thumb, finger, leg, foot, toe, or phalange shall be considered
10 as the equivalent of the loss by separation of the arm, hand,
11 thumb, finger, leg, foot, toe, or phalange and the compensation
12 shall be paid for the same period as for the loss thereof by
13 separation.

14 (3) Partial Loss of Use: For the permanent partial loss of the use
15 of an arm, hand, thumb, finger, leg, foot, toe, or phalange,
16 compensation shall be paid for the proportionate loss of the use of
17 such arm, hand, thumb, finger, leg, foot, toe, or phalange.

18 (4) For disablements for occupational disease resulting in total
19 permanent disability, five hundred (500) weeks.

20 (5) For the loss of both hands, or both feet, or the total sight of
21 both eyes, or any two (2) of such losses resulting from the same
22 disablement by occupational disease, five hundred (500) weeks.

23 (6) For the permanent and complete loss of vision by enucleation
24 of an eye or its reduction to one-tenth (1/10) of normal vision with
25 glasses, one hundred fifty (150) weeks, and for any other
26 permanent reduction of the sight of an eye, compensation shall be
27 paid for a period proportionate to the degree of such permanent
28 reduction without correction or glasses. However, when such
29 permanent reduction without correction or glasses would result in
30 one hundred percent (100%) loss of vision, but correction or
31 glasses would result in restoration of vision, then compensation
32 shall be paid for fifty percent (50%) of such total loss of vision
33 without glasses plus an additional amount equal to the
34 proportionate amount of such reduction with glasses, not to
35 exceed an additional fifty percent (50%).

36 (7) For the permanent and complete loss of hearing, two hundred
37 (200) weeks.

38 (8) In all other cases of permanent partial impairment,

1 compensation proportionate to the degree of such permanent
 2 partial impairment, in the discretion of the worker's compensation
 3 board, not exceeding five hundred (500) weeks.

4 (9) In all cases of permanent disfigurement, which may impair the
 5 future usefulness or opportunities of the employee, compensation
 6 in the discretion of the worker's compensation board, not
 7 exceeding two hundred (200) weeks, except that no compensation
 8 shall be payable under this paragraph where compensation shall
 9 be payable under subdivisions (1) through (8). Where
 10 compensation for temporary total disability has been paid, this
 11 amount of compensation shall be deducted from any
 12 compensation due for permanent disfigurement.

13 With respect to disablements in the following schedule occurring on
 14 and after July 1, 1991, the employee shall receive in addition to
 15 temporary total disability benefits, not exceeding one hundred
 16 twenty-five (125) weeks on account of the disablement, compensation
 17 in an amount determined under the following schedule to be paid
 18 weekly at a rate of sixty-six and two-thirds percent ($66\frac{2}{3}\%$) of the
 19 employee's average weekly wages during the fifty-two (52) weeks
 20 immediately preceding the week in which the disablement occurred:

21 (1) Amputation: For the loss by separation of the thumb, twelve
 22 (12) degrees of permanent impairment; of the index finger, eight
 23 (8) degrees of permanent impairment; of the second finger, seven
 24 (7) degrees of permanent impairment; of the third or ring finger,
 25 six (6) degrees of permanent impairment; of the fourth or little
 26 finger, four (4) degrees of permanent impairment; of the hand by
 27 separation below the elbow joint, forty (40) degrees of permanent
 28 impairment; of the arm above the elbow, fifty (50) degrees of
 29 permanent impairment; of the big toe, twelve (12) degrees of
 30 permanent impairment; of the second toe, six (6) degrees of
 31 permanent impairment; of the third toe, four (4) degrees of
 32 permanent impairment; of the fourth toe, three (3) degrees of
 33 permanent impairment; of the fifth or little toe, two (2) degrees of
 34 permanent impairment; of separation of the foot below the knee
 35 joint, thirty-five (35) degrees of permanent impairment; and of the
 36 leg above the knee joint, forty-five (45) degrees of permanent
 37 impairment.

38 (2) Amputations occurring on or after July 1, 1997: For the loss

1 by separation of any of the body parts described in subdivision (1)
2 on or after July 1, 1997, the dollar values per degree applying on
3 the date of the injury as described in subsection (h) shall be
4 multiplied by two (2). However, the doubling provision of this
5 subdivision does not apply to a loss of use that is not a loss by
6 separation.

7 (3) The loss of more than one (1) phalange of a thumb or toe shall
8 be considered as the loss of the entire thumb or toe. The loss of
9 more than two (2) phalanges of a finger shall be considered as the
10 loss of the entire finger. The loss of not more than one (1)
11 phalange of a thumb or toe shall be considered as the loss of
12 one-half (1/2) of the degrees of permanent impairment for the loss
13 of the entire thumb or toe. The loss of not more than one (1)
14 phalange of a finger shall be considered as the loss of one-third
15 (1/3) of the finger and compensation shall be paid for one-third
16 (1/3) of the degrees payable for the loss of the entire finger. The
17 loss of more than one (1) phalange of the finger but not more than
18 two (2) phalanges of the finger shall be considered as the loss of
19 one-half (1/2) of the finger and compensation shall be paid for
20 one-half (1/2) of the degrees payable for the loss of the entire
21 finger.

22 (4) For the loss by separation of both hands or both feet or the
23 total sight of both eyes or any two (2) such losses in the same
24 accident, one hundred (100) degrees of permanent impairment.

25 (5) For the permanent and complete loss of vision by enucleation
26 or its reduction to one-tenth (1/10) of normal vision with glasses,
27 thirty-five (35) degrees of permanent impairment.

28 (6) For the permanent and complete loss of hearing in one (1) ear,
29 fifteen (15) degrees of permanent impairment, and in both ears,
30 forty (40) degrees of permanent impairment.

31 (7) For the loss of one (1) testicle, (10) ten degrees of permanent
32 impairment; for the loss of both testicles, thirty (30) degrees of
33 permanent impairment.

34 (8) Loss of use: The total permanent loss of the use of an arm, a
35 hand, a thumb, a finger, a leg, a foot, a toe, or a phalange shall be
36 considered as the equivalent of the loss by separation of the arm,
37 hand, thumb, finger, leg, foot, toe, or phalange, and compensation
38 shall be paid in the same amount as for the loss by separation.

1 However, the doubling provision of subdivision (2) does not
2 apply to a loss of use that is not a loss by separation.

3 (9) Partial loss of use: For the permanent partial loss of the use of
4 an arm, a hand, a thumb, a finger, a leg, a foot, a toe, or a
5 phalange, compensation shall be paid for the proportionate loss of
6 the use of the arm, hand, thumb, finger, leg, foot, toe, or phalange.

7 (10) For disablements resulting in total permanent disability, the
8 amount payable for impairment or five hundred (500) weeks of
9 compensation, whichever is greater.

10 (11) For any permanent reduction of the sight of an eye less than
11 a total loss as specified in subdivision (3), the compensation shall
12 be paid in an amount proportionate to the degree of a permanent
13 reduction without correction or glasses. However, when a
14 permanent reduction without correction or glasses would result in
15 one hundred percent (100%) loss of vision, then compensation
16 shall be paid for fifty percent (50%) of the total loss of vision
17 without glasses, plus an additional amount equal to the
18 proportionate amount of the reduction with glasses, not to exceed
19 an additional fifty percent (50%).

20 (12) For any permanent reduction of the hearing of one (1) or both
21 ears, less than the total loss as specified in subdivision (4),
22 compensation shall be paid in an amount proportionate to the
23 degree of a permanent reduction.

24 (13) In all other cases of permanent partial impairment,
25 compensation proportionate to the degree of a permanent partial
26 impairment, in the discretion of the worker's compensation board,
27 not exceeding one hundred (100) degrees of permanent
28 impairment.

29 (14) In all cases of permanent disfigurement which may impair
30 the future usefulness or opportunities of the employee,
31 compensation, in the discretion of the worker's compensation
32 board, not exceeding forty (40) degrees of permanent impairment
33 except that no compensation shall be payable under this
34 subdivision where compensation is payable elsewhere in this
35 section.

36 (h) With respect to disablements occurring on and after July 1,
37 1991, compensation for permanent partial impairment shall be paid
38 according to the degree of permanent impairment for the disablement

1 determined under subsection (d) and the following:

2 (1) With respect to disablements occurring on and after July 1,
3 1991, and before July 1, 1992, for each degree of permanent
4 impairment from one (1) to thirty-five (35), five hundred dollars
5 (\$500) per degree; for each degree of permanent impairment from
6 thirty-six (36) to fifty (50), nine hundred dollars (\$900) per
7 degree; for each degree of permanent impairment above fifty (50),
8 one thousand five hundred dollars (\$1,500) per degree.

9 (2) With respect to disablements occurring on and after July 1,
10 1992, and before July 1, 1993, for each degree of permanent
11 impairment from one (1) to twenty (20), five hundred dollars
12 (\$500) per degree; for each degree of permanent impairment from
13 twenty-one (21) to thirty-five (35), eight hundred dollars (\$800)
14 per degree; for each degree of permanent impairment from
15 thirty-six (36) to fifty (50), one thousand three hundred dollars
16 (\$1,300) per degree; for each degree of permanent impairment
17 above fifty (50), one thousand seven hundred dollars (\$1,700) per
18 degree.

19 (3) With respect to disablements occurring on and after July 1,
20 1993, and before July 1, 1997, for each degree of permanent
21 impairment from one (1) to ten (10), five hundred dollars (\$500)
22 per degree; for each degree of permanent impairment from eleven
23 (11) to twenty (20), seven hundred dollars (\$700) per degree; for
24 each degree of permanent impairment from twenty-one (21) to
25 thirty-five (35), one thousand dollars (\$1,000) per degree; for
26 each degree of permanent impairment from thirty-six (36) to fifty
27 (50), one thousand four hundred dollars (\$1,400) per degree; for
28 each degree of permanent impairment above fifty (50), one
29 thousand seven hundred dollars (\$1,700) per degree.

30 (4) With respect to disablements occurring on and after July 1,
31 1997, and before July 1, 1998, for each degree of permanent
32 impairment from one (1) to ten (10), seven hundred fifty dollars
33 (\$750) per degree; for each degree of permanent impairment from
34 eleven (11) thirty-five (35), one thousand dollars (\$1,000) per
35 degree; for each degree of permanent impairment from thirty-six
36 (36) to fifty (50), one thousand four hundred dollars (\$1,400) per
37 degree; for each degree of permanent impairment above fifty (50),
38 one thousand seven hundred dollars (\$1,700) per degree.

- 1 (5) With respect to disablements occurring on and after July 1,
 2 1998, and before July 1, 1999, for each degree of permanent
 3 impairment from one (1) to ten (10), seven hundred fifty dollars
 4 (\$750) per degree; for each degree of permanent impairment from
 5 eleven (11) to thirty-five (35), one thousand dollars (\$1,000) per
 6 degree; for each degree of permanent impairment from thirty-six
 7 (36) to fifty (50), one thousand four hundred dollars (\$1,400) per
 8 degree; for each degree of permanent impairment above fifty (50),
 9 one thousand seven hundred dollars (\$1,700) per degree.
- 10 (6) With respect to disablements occurring on and after July 1,
 11 1999, **and before July 1, 2000**, for each degree of permanent
 12 impairment from one (1) to ten (10), nine hundred dollars (\$900)
 13 per degree; for each degree of permanent impairment from eleven
 14 (11) to thirty-five (35), one thousand one hundred dollars
 15 (\$1,100) per degree; for each degree of permanent impairment
 16 from thirty-six (36) to fifty (50), one thousand six hundred dollars
 17 (\$1,600) per degree; for each degree of permanent impairment
 18 above fifty (50), two thousand dollars (\$2,000) per degree.
- 19 **(7) With respect to disablements occurring on and after July**
 20 **1, 2000, and before July 1, 2001, for each degree of**
 21 **permanent impairment from one (1) to ten (10), nine hundred**
 22 **fifty dollars (\$950) per degree; for each degree of permanent**
 23 **impairment from eleven (11) to thirty-five (35), one thousand**
 24 **four hundred fifty dollars (\$1,450) per degree; for each degree**
 25 **of permanent impairment from thirty-six (36) to fifty (50),**
 26 **two thousand dollars (\$2,000) per degree; for each degree of**
 27 **permanent impairment above fifty (50), two thousand six**
 28 **hundred dollars (\$2,600) per degree.**
- 29 **(8) With respect to disablements occurring on and after July**
 30 **1, 2001, and before July 1, 2002, for each degree of permanent**
 31 **impairment from one (1) to ten (10), one thousand dollars**
 32 **(\$1,000) per degree; for each degree of permanent**
 33 **impairment from eleven (11) to thirty-five (35), one thousand**
 34 **eight hundred fifty dollars (\$1,850) per degree; for each**
 35 **degree of permanent impairment from thirty-six (36) to fifty**
 36 **(50), two thousand seven hundred dollars (\$2,700) per degree;**
 37 **for each degree of permanent impairment above fifty (50),**
 38 **three thousand four hundred dollars (\$3,400) per degree.**

(9) With respect to disablements occurring on and after July 1, 2002, for each degree of permanent impairment from one (1) to ten (10), one thousand fifty dollars (\$1,050) per degree; for each degree of permanent impairment from eleven (11) to thirty-five (35), two thousand four hundred dollars (\$2,400) per degree; for each degree of permanent impairment from thirty-six (36) to fifty (50), three thousand five hundred dollars (\$3,500) per degree; for each degree of permanent impairment above fifty (50), four thousand four hundred dollars (\$4,400) per degree.

(i) The average weekly wages used in the determination of compensation for permanent partial impairment under subsections (g) and (h) shall not exceed the following:

(1) With respect to disablements occurring on or after July 1, 1991, and before July 1, 1992, four hundred ninety-two dollars (\$492).

(2) With respect to disablements occurring on or after July 1, 1992, and before July 1, 1993, five hundred forty dollars (\$540).

(3) With respect to disablements occurring on or after July 1, 1993, and before July 1, 1994, five hundred ninety-one dollars (\$591).

(4) With respect to disablements occurring on or after July 1, 1994, and before July 1, 1997, six hundred forty-two dollars (\$642).

(5) With respect to disablements occurring on or after July 1, 1997, and before July 1, 1998, six hundred seventy-two dollars (\$672).

(6) With respect to disablements occurring on or after July 1, 1998, and before July 1, 1999, seven hundred two dollars (\$702).

(7) With respect to disablements occurring on or after July 1, 1999, and before July 1, 2000, seven hundred thirty-two dollars (\$732).

(8) With respect to disablements occurring on or after July 1, 2000, **and before July 1, 2001**, seven hundred sixty-two dollars (\$762).

(9) With respect to disablements occurring on or after July 1, 2001, and before July 1, 2002, eight hundred seven dollars (\$807).

(10) With respect to disablements occurring on or after July 1, 2002, eight hundred forty dollars (\$840).

(j) If any employee, only partially disabled, refuses employment suitable to his capacity procured for him, he shall not be entitled to any compensation at any time during the continuance of such refusal unless, in the opinion of the worker's compensation board, such refusal was justifiable. The employee must be served with a notice setting forth the consequences of the refusal under this subsection. The notice must be in a form prescribed by the worker's compensation board.

(k) If an employee has sustained a permanent impairment or disability from an accidental injury other than an occupational disease in another employment than that in which he suffered a subsequent disability from an occupational disease, such as herein specified, the employee shall be entitled to compensation for the subsequent disability in the same amount as if the previous impairment or disability had not occurred. However, if the permanent impairment or disability resulting from an occupational disease for which compensation is claimed results only in the aggravation or increase of a previously sustained permanent impairment from an occupational disease or physical condition regardless of the source or cause of such previously sustained impairment from an occupational disease or physical condition, the board shall determine the extent of the previously sustained permanent impairment from an occupational disease or physical condition as well as the extent of the aggravation or increase resulting from the subsequent permanent impairment or disability, and shall award compensation only for that part of said occupational disease or physical condition resulting from the subsequent permanent impairment. An amputation of any part of the body or loss of any or all of the vision of one (1) or both eyes caused by an occupational disease shall be considered as a permanent impairment or physical condition.

(l) If an employee suffers a disablement from occupational disease for which compensation is payable while the employee is still receiving or entitled to compensation for a previous injury by accident or disability by occupational disease in the same employment, he shall not at the same time be entitled to compensation for both, unless it be for a permanent injury, such as specified in subsection (g)(1), (g)(2), (g)(3), (g)(6), or (g)(7); but the employee shall be entitled to

1 compensation for that disability and from the time of that disability
2 which will cover the longest period and the largest amount payable
3 under this chapter.

4 (m) If an employee receives a permanent disability from
5 occupational disease such as specified in subsection (g)(1), (g)(2),
6 (g)(3), (g)(6), or (g)(7), after having sustained another such permanent
7 disability in the same employment the employee shall be entitled to
8 compensation for both such disabilities, but the total compensation
9 shall be paid by extending the period and not by increasing the amount
10 of weekly compensation and, when such previous and subsequent
11 permanent disabilities, in combination result in total permanent
12 disability or permanent total impairment, compensation shall be
13 payable for such permanent total disability or impairment, but
14 payments made for the previous disability or impairment shall be
15 deducted from the total payment of compensation due.

16 (n) When an employee has been awarded or is entitled to an award
17 of compensation for a definite period under this chapter for disability
18 from occupational disease, which disablement occurs on and after April
19 1, 1951, and prior to April 1, 1963, and such employee dies from any
20 other cause than such occupational disease, payment of the unpaid
21 balance of such compensation, not exceeding three hundred (300)
22 weeks, shall be made to the employee's dependents of the second and
23 third class as defined in sections 11 through 14 of this chapter, and
24 compensation, not exceeding five hundred (500) weeks, shall be made
25 to the employee's dependents of the first class as defined in sections 11
26 through 14 of this chapter. When an employee has been awarded or is
27 entitled to an award of compensation for a definite period from an
28 occupational disease wherein disablement occurs on and after April 1,
29 1963, and such employee dies from other causes than such
30 occupational disease, payment of the unpaid balance of such
31 compensation not exceeding three hundred fifty (350) weeks shall be
32 paid to the employee's dependents of the second and third class as
33 defined in sections 11 through 14 of this chapter and compensation, not
34 exceeding five hundred (500) weeks shall be made to the employee's
35 dependents of the first class as defined in sections 11 through 14 of this
36 chapter.

37 (o) Any payment made by the employer to the employee during the
38 period of the employee's disability, or to the employee's dependents,

1 which, by the terms of this chapter, was not due and payable when
 2 made, may, subject to the approval of the worker's compensation board,
 3 be deducted from the amount to be paid as compensation, but such
 4 deduction shall be made from the distal end of the period during which
 5 compensation must be paid, except in cases of temporary disability.

6 (p) When so provided in the compensation agreement or in the
 7 award of the worker's compensation board, compensation may be paid
 8 semimonthly, or monthly, instead of weekly.

9 (q) When the aggregate payments of compensation awarded by
 10 agreement or upon hearing to an employee or dependent under eighteen
 11 (18) years of age do not exceed one hundred dollars (\$100), the
 12 payment thereof may be made directly to such employee or dependent,
 13 except when the worker's compensation board shall order otherwise.

14 Whenever the aggregate payments of compensation, due to any
 15 person under eighteen (18) years of age, exceed one hundred dollars
 16 (\$100), the payment thereof shall be made to a trustee, appointed by the
 17 circuit or superior court, or to a duly qualified guardian, or, upon the
 18 order of the worker's compensation board, to a parent or to such minor
 19 person. The payment of compensation, due to any person eighteen (18)
 20 years of age or over, may be made directly to such person.

21 (r) If an employee, or a dependent, is mentally incompetent, or a
 22 minor at the time when any right or privilege accrues to the employee
 23 under this chapter, the employee's guardian or trustee may, in the
 24 employee's behalf, claim and exercise such right and privilege.

25 (s) All compensation payments named and provided for in this
 26 section, shall mean and be defined to be for only such occupational
 27 diseases and disabilities therefrom as are proved by competent
 28 evidence, of which there are or have been objective conditions or
 29 symptoms proven, not within the physical or mental control of the
 30 employee himself.

31 SECTION 6. IC 22-3-7-16.1 IS ADDED TO THE INDIANA CODE
 32 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
 33 JANUARY 1, 2001]: **Sec. 16.1. (a) Every insurance carrier insuring**
 34 **employers who are or may be liable under this article to pay**
 35 **compensation for disablement or death from occupational diseases**
 36 **of their employees under this article and every employer carrying**
 37 **the employer's own risk shall, on or before April 10 of each year,**
 38 **pay to the worker's compensation board for the benefit of a fund**

1 to be known as the occupational diseases second injury fund. The
 2 payment shall be a sum equal to one percent (1%) of the total
 3 amount of all payments under this chapter for occupational
 4 diseases paid to employees with occupational diseases or their
 5 beneficiaries under this chapter for the calendar year next
 6 preceding the due date of such payment. If the amount to the credit
 7 of the occupational diseases second injury fund as of April 1 of any
 8 year exceeds five hundred thousand dollars (\$500,000), the
 9 payments of one percent (1%) shall not be assessed or collected
 10 during the ensuing year. But when on April 1 of any year the
 11 amount to the credit of the fund is less than five hundred thousand
 12 dollars (\$500,000), the payments of one percent (1%) of the total
 13 amount of all payments under this chapter for occupational
 14 diseases paid to employees with occupational diseases or their
 15 beneficiaries under this chapter for the calendar year next
 16 preceding that date shall be resumed and paid into the fund.

17 (b) The sums shall be paid by the worker's compensation board
 18 to the treasurer of state, to be deposited in a special account known
 19 as the occupational diseases second injury fund. The funds are not
 20 part of the state general fund. Any balance remaining in the
 21 account at the end of any fiscal year does not revert to the state
 22 general fund. The funds shall be used only for the payment of
 23 awards of compensation and expense of medical examinations or
 24 treatment made and ordered by the board and chargeable against
 25 the occupational diseases second injury fund under this section and
 26 shall be paid for that purpose by the treasurer of state upon award
 27 or order of the board.

28 (c) If an employee who is entitled to compensation under this
 29 chapter either:

- 30 (1) exhausts the maximum benefits under section 19 of this
- 31 chapter without having received the full amount of award
- 32 granted to the employee under section 16 of this chapter; or
- 33 (2) exhausts the employee's benefits under section 16 of this
- 34 chapter;

35 the employee may apply to the worker's compensation board,
 36 which may award the employee compensation from the
 37 occupational diseases second injury fund established by this
 38 section, as provided under subsection (d).

(d) An employee who has exhausted the employee's maximum benefits under section 10 of this chapter may be awarded additional compensation equal to sixty-six and two-thirds percent (66 2/3%) of the employee's average weekly wage at the time of the employee's disablement from occupational disease, not to exceed the maximum then applicable under section 19 of this chapter for a period not to exceed one hundred fifty (150) weeks upon competent evidence sufficient to establish:

(1) that the employee is totally and permanently disabled from an occupational disease (as defined in section 10 of this chapter) of which there are or have been objective conditions and symptoms proven that are not within the physical or mental control of the employee; and

(2) that the employee is unable to support the employee in any gainful employment, not associated with rehabilitative or vocational therapy.

(e) The additional award may be renewed during the employee's total and permanent disability after appropriate hearings by the worker's compensation board for successive periods not to exceed one hundred fifty (150) weeks each.

SECTION 7. IC 22-3-7-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 17. (a) During the period of disablement, the employer shall furnish or cause to be furnished, free of charge to the employee, an attending physician for the treatment of his occupational disease, and in addition thereto such surgical, hospital, and nursing services and supplies as the attending physician or the worker's compensation board may deem necessary. If the employee is requested or required by the employer to submit to treatment outside the county of employment, ~~said~~ **the** employer shall also pay the reasonable expense of travel, food, and lodging necessary during the travel, but not to exceed the amount paid at the time of ~~said~~ **the** travel by the state of Indiana to its employees.

(b) During the period of disablement resulting from the occupational disease, the employer shall furnish such physician, services, and supplies, and the worker's compensation board may, on proper application of either party, require that treatment by such physician and such services and supplies be furnished by or on behalf of the employer as the board may deem reasonably necessary.

1 (c) No representative of the employer or insurance carrier,
2 including case managers or rehabilitation nurses, may be present
3 at any treatment of an employee with an occupational disease
4 without the express written consent of the employee and the
5 treating medical personnel. At the time of any medical treatment
6 that a representative of the employer wishes to attend, the
7 representative of the employer shall inform the employee with an
8 occupational disease and treating medical personnel that their
9 written consent is required before the attendance of the employer's
10 representative. The employee's compensation and benefits may not
11 be jeopardized in any way due to the employer's failure or refusal
12 to complete a written waiver allowing the attendance of the
13 employer's representative. The employer's representative may not
14 in any way cause the employee to believe that the employee's
15 compensation and benefits will be terminated if the employee fails
16 or refuses to complete a written waiver allowing the attendance of
17 the employer's representative. The written waivers shall be
18 executed on forms prescribed by the board.

19 (d) After an employee's occupational disease has been adjudicated
20 by agreement or award on the basis of permanent partial impairment
21 and within the statutory period for review in such case as provided in
22 section 27(i) of this chapter, the employer may continue to furnish a
23 physician or a surgeon and other medical services and supplies, and the
24 board may, within such statutory period for review as provided in
25 section 27(i) of this chapter, on a proper application of either party,
26 require that treatment by such physician or surgeon and such services
27 and supplies be furnished by and on behalf of the employer as the
28 board may deem necessary to limit or reduce the amount and extent of
29 such impairment. The refusal of the employee to accept such services
30 and supplies when so provided by or on behalf of the employer, shall
31 bar the employee from all compensation otherwise payable during the
32 period of such refusal and his right to prosecute any proceeding under
33 this chapter shall be suspended and abated until such refusal ceases.
34 The employee must be served with a notice setting forth the
35 consequences of the refusal under this section. The notice must be in
36 a form prescribed by the worker's compensation board. No
37 compensation for permanent total impairment, permanent partial
38 impairment, permanent disfigurement, or death shall be paid or payable

1 for that part or portion of such impairment, disfigurement, or death
 2 which is the result of the failure of such employee to accept such
 3 treatment, services, and supplies, provided that an employer may at any
 4 time permit an employee to have treatment for his disease or injury by
 5 spiritual means or prayer in lieu of such physician, services, and
 6 supplies.

7 ~~(c)~~ (e) Regardless of when it occurs, where a compensable
 8 occupational disease results in the amputation of a body part, the
 9 enucleation of an eye, or the loss of natural teeth, the employer shall
 10 furnish an appropriate artificial member, braces, and prosthodontics.
 11 The cost of repairs to or replacements for the artificial members,
 12 braces, or prosthodontics that result from a compensable occupational
 13 disease pursuant to a prior award and are required due to either medical
 14 necessity or normal wear and tear, determined according to the
 15 employee's individual use, but not abuse, of the artificial member,
 16 braces, or prosthodontics, shall be paid from the second injury fund
 17 upon order or award of the worker's compensation board. The
 18 employee is not required to meet any other requirement for admission
 19 to the second injury fund.

20 ~~(d)~~ (f) If an emergency or because of the employer's failure to
 21 provide such attending physician or such surgical, hospital, or nurse's
 22 services and supplies or such treatment by spiritual means or prayer as
 23 specified in this section, or for other good reason, a physician other
 24 than that provided by the employer treats the diseased employee within
 25 the period of disability, or necessary and proper surgical, hospital, or
 26 nurse's services and supplies are procured within ~~said~~ the period, the
 27 reasonable cost of such services and supplies shall, subject to approval
 28 of the worker's compensation board, be paid by the employer.

29 ~~(e)~~ (g) This section may not be construed to prohibit an agreement
 30 between an employer and employees that has the approval of the board
 31 and that:

- 32 (1) binds the parties to medical care furnished by providers
- 33 selected by agreement before or after disablement; or
- 34 (2) makes the findings of a provider chosen in this manner
- 35 binding upon the parties.

36 ~~(f)~~ (h) The employee and the employee's estate do not have liability
 37 to a health care provider for payment for services obtained under this
 38 section. The right to order payment for all services provided under this

chapter is solely with the board. All claims by a health care provider for payment for services are against the employer and the employer's insurance carrier, if any, and must be made with the board under this chapter.

SECTION 8. IC 22-3-7-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 19. (a) In computing compensation for temporary total disability, temporary partial disability, and total permanent disability under this law with respect to occupational diseases occurring:

(1) on and after July 1, 1974, and before July 1, 1976, the average weekly wages shall be considered to be:

(A) not more than one hundred thirty-five dollars (\$135); and

(B) not less than seventy-five dollars (\$75);

(2) on and after July 1, 1976, and before July 1, 1977, the average weekly wages shall be considered to be:

(A) not more than one hundred fifty-six dollars (\$156); and

(B) not less than seventy-five dollars (\$75);

(3) on and after July 1, 1977, and before July 1, 1979, the average weekly wages are considered to be:

(A) not more than one hundred eighty dollars (\$180); and

(B) not less than seventy-five dollars (\$75);

(4) on and after July 1, 1979, and before July 1, 1980, the average weekly wages are considered to be:

(A) not more than one hundred ninety-five dollars (\$195); and

(B) not less than seventy-five dollars (\$75);

(5) on and after July 1, 1980, and before July 1, 1983, the average weekly wages are considered to be:

(A) not more than two hundred ten dollars (\$210); and

(B) not less than seventy-five dollars (\$75);

(6) on and after July 1, 1983, and before July 1, 1984, the average weekly wages are considered to be:

(A) not more than two hundred thirty-four dollars (\$234); and

(B) not less than seventy-five dollars (\$75); and

(7) on and after July 1, 1984, and before July 1, 1985, the average weekly wages are considered to be:

(A) not more than two hundred forty-nine dollars (\$249); and

(B) not less than seventy-five dollars (\$75).

(b) In computing compensation for temporary total disability,

1 temporary partial disability, and total permanent disability, with respect
2 to occupational diseases occurring on and after July 1, 1985, and before
3 July 1, 1986, the average weekly wages are considered to be:

- 4 (1) not more than two hundred sixty-seven dollars (\$267); and
- 5 (2) not less than seventy-five dollars (\$75).

6 (c) In computing compensation for temporary total disability,
7 temporary partial disability, and total permanent disability, with respect
8 to occupational diseases occurring on and after July 1, 1986, and before
9 July 1, 1988, the average weekly wages are considered to be:

- 10 (1) not more than two hundred eighty-five dollars (\$285); and
- 11 (2) not less than seventy-five dollars (\$75).

12 (d) In computing compensation for temporary total disability,
13 temporary partial disability, and total permanent disability, with respect
14 to occupational diseases occurring on and after July 1, 1988, and before
15 July 1, 1989, the average weekly wages are considered to be:

- 16 (1) not more than three hundred eighty-four dollars (\$384); and
- 17 (2) not less than seventy-five dollars (\$75).

18 (e) In computing compensation for temporary total disability,
19 temporary partial disability, and total permanent disability, with respect
20 to occupational diseases occurring on and after July 1, 1989, and before
21 July 1, 1990, the average weekly wages are considered to be:

- 22 (1) not more than four hundred eleven dollars (\$411); and
- 23 (2) not less than seventy-five dollars (\$75).

24 (f) In computing compensation for temporary total disability,
25 temporary partial disability, and total permanent disability, with respect
26 to occupational diseases occurring on and after July 1, 1990, and before
27 July 1, 1991, the average weekly wages are considered to be:

- 28 (1) not more than four hundred forty-one dollars (\$441); and
- 29 (2) not less than seventy-five dollars (\$75).

30 (g) In computing compensation for temporary total disability,
31 temporary partial disability, and total permanent disability, with respect
32 to occupational diseases occurring on and after July 1, 1991, and before
33 July 1, 1992, the average weekly wages are considered to be:

- 34 (1) not more than four hundred ninety-two dollars (\$492); and
- 35 (2) not less than seventy-five dollars (\$75).

36 (h) In computing compensation for temporary total disability,
37 temporary partial disability, and total permanent disability, with respect
38 to occupational diseases occurring on and after July 1, 1992, and before

- 1 July 1, 1993, the average weekly wages are considered to be:
- 2 (1) not more than five hundred forty dollars (\$540); and
- 3 (2) not less than seventy-five dollars (\$75).
- 4 (i) In computing compensation for temporary total disability,
- 5 temporary partial disability, and total permanent disability, with respect
- 6 to occupational diseases occurring on and after July 1, 1993, and before
- 7 July 1, 1994, the average weekly wages are considered to be:
- 8 (1) not more than five hundred ninety-one dollars (\$591); and
- 9 (2) not less than seventy-five dollars (\$75).
- 10 (j) In computing compensation for temporary total disability,
- 11 temporary partial disability and total permanent disability, with respect
- 12 to occupational diseases occurring on and after July 1, 1994, and before
- 13 July 1, 1997, the average weekly wages are considered to be:
- 14 (1) not more than six hundred forty-two dollars (\$642); and
- 15 (2) not less than seventy-five dollars (\$75).
- 16 (k) In computing compensation for temporary total disability,
- 17 temporary partial disability, and total permanent disability, the average
- 18 weekly wages are considered to be:
- 19 (1) with respect to occupational diseases occurring on and after
- 20 July 1, 1997, and before July 1, 1998:
- 21 (A) not more than six hundred seventy-two dollars (\$672); and
- 22 (B) not less than seventy-five dollars (\$75);
- 23 (2) with respect to occupational diseases occurring on and after
- 24 July 1, 1998, and before July 1, 1999:
- 25 (A) not more than seven hundred two dollars (\$702); and
- 26 (B) not less than seventy-five dollars (\$75);
- 27 (3) with respect to occupational diseases occurring on and after
- 28 July 1, 1999, and before July 1, 2000:
- 29 (A) not more than seven hundred thirty-two dollars (\$732);
- 30 and
- 31 (B) not less than seventy-five dollars (\$75); ~~and~~
- 32 (4) with respect to occupational diseases ~~occurring~~ **occurring** on
- 33 and after July 1, 2000, **and before July 1, 2001:**
- 34 (A) not more than seven hundred sixty-two dollars (\$762); and
- 35 (B) not less than seventy-five dollars (\$75);
- 36 **(5) with respect to occupational diseases occurring on and**
- 37 **after July 1, 2001, and before July 1, 2002:**
- 38 **(A) not more than eight hundred seven dollars (\$807); and**

1 **(B) not less than seventy-five dollars (\$75); and**
 2 **(6) with respect to occupational diseases occurring on and**
 3 **after July 1, 2002:**

4 **(A) not more than eight hundred forty dollars (\$840); and**
 5 **(B) not less than seventy-five dollars (\$75).**

6 (l) The maximum compensation that shall be paid for occupational
 7 disease and its results under any one (1) or more provisions of this
 8 chapter with respect to disability or death occurring:

9 (1) on and after July 1, 1974, and before July 1, 1976, shall not
 10 exceed forty-five thousand dollars (\$45,000) in any case;

11 (2) on and after July 1, 1976, and before July 1, 1977, shall not
 12 exceed fifty-two thousand dollars (\$52,000) in any case;

13 (3) on and after July 1, 1977, and before July 1, 1979, may not
 14 exceed sixty thousand dollars (\$60,000) in any case;

15 (4) on and after July 1, 1979, and before July 1, 1980, may not
 16 exceed sixty-five thousand dollars (\$65,000) in any case;

17 (5) on and after July 1, 1980, and before July 1, 1983, may not
 18 exceed seventy thousand dollars (\$70,000) in any case;

19 (6) on and after July 1, 1983, and before July 1, 1984, may not
 20 exceed seventy-eight thousand dollars (\$78,000) in any case; and

21 (7) on and after July 1, 1984, and before July 1, 1985, may not
 22 exceed eighty-three thousand dollars (\$83,000) in any case.

23 (m) The maximum compensation with respect to disability or death
 24 occurring on and after July 1, 1985, and before July 1, 1986, which
 25 shall be paid for occupational disease and the results thereof under the
 26 provisions of this chapter or under any combination of its provisions
 27 may not exceed eighty-nine thousand dollars (\$89,000) in any case.
 28 The maximum compensation with respect to disability or death
 29 occurring on and after July 1, 1986, and before July 1, 1988, which
 30 shall be paid for occupational disease and the results thereof under the
 31 provisions of this chapter or under any combination of its provisions
 32 may not exceed ninety-five thousand dollars (\$95,000) in any case. The
 33 maximum compensation with respect to disability or death occurring
 34 on and after July 1, 1988, and before July 1, 1989, that shall be paid for
 35 occupational disease and the results thereof under this chapter or under
 36 any combination of its provisions may not exceed one hundred
 37 twenty-eight thousand dollars (\$128,000) in any case.

38 (n) The maximum compensation with respect to disability or death

1 occurring on and after July 1, 1989, and before July 1, 1990, that shall
2 be paid for occupational disease and the results thereof under this
3 chapter or under any combination of its provisions may not exceed one
4 hundred thirty-seven thousand dollars (\$137,000) in any case.

5 (o) The maximum compensation with respect to disability or death
6 occurring on and after July 1, 1990, and before July 1, 1991, that shall
7 be paid for occupational disease and the results thereof under this
8 chapter or under any combination of its provisions may not exceed one
9 hundred forty-seven thousand dollars (\$147,000) in any case.

10 (p) The maximum compensation with respect to disability or death
11 occurring on and after July 1, 1991, and before July 1, 1992, that shall
12 be paid for occupational disease and the results thereof under this
13 chapter or under any combination of the provisions of this chapter may
14 not exceed one hundred sixty-four thousand dollars (\$164,000) in any
15 case.

16 (q) The maximum compensation with respect to disability or death
17 occurring on and after July 1, 1992, and before July 1, 1993, that shall
18 be paid for occupational disease and the results thereof under this
19 chapter or under any combination of the provisions of this chapter may
20 not exceed one hundred eighty thousand dollars (\$180,000) in any case.

21 (r) The maximum compensation with respect to disability or death
22 occurring on and after July 1, 1993, and before July 1, 1994, that shall
23 be paid for occupational disease and the results thereof under this
24 chapter or under any combination of the provisions of this chapter may
25 not exceed one hundred ninety-seven thousand dollars (\$197,000) in
26 any case.

27 (s) The maximum compensation with respect to disability or death
28 occurring on and after July 1, 1994, and before July 1, 1997, that shall
29 be paid for occupational disease and the results thereof under this
30 chapter or under any combination of the provisions of this chapter may
31 not exceed two hundred fourteen thousand dollars (\$214,000) in any
32 case.

33 (t) The maximum compensation that shall be paid for occupational
34 disease and the results of an occupational disease under this chapter or
35 under any combination of the provisions of this chapter may not exceed
36 the following amounts in any case:

37 (1) With respect to disability or death occurring on and after July
38 1, 1997, and before July 1, 1998, two hundred twenty-four

- 1 thousand dollars (\$224,000).
- 2 (2) With respect to disability or death occurring on and after July
- 3 1, 1998, and before July 1, 1999, two hundred thirty-four
- 4 thousand dollars (\$234,000).
- 5 (3) With respect to disability or death occurring on and after July
- 6 1, 1999, and before July 1, 2000, two hundred forty-four thousand
- 7 dollars (\$244,000).
- 8 (4) With respect to disability or death occurring on and after July
- 9 1, 2000, **and before July 1, 2001**, two hundred fifty-four
- 10 thousand dollars (\$254,000).
- 11 **(5) With respect to disability or death occurring on and after**
- 12 **July 1, 2001, and before July 1, 2002, two hundred sixty-nine**
- 13 **thousand dollars (\$269,000).**
- 14 **(6) With respect to disability or death occurring on and after**
- 15 **July 1, 2002, two hundred eighty thousand dollars (\$280,000).**
- 16 (u) For all disabilities occurring before July 1, 1985, "average
- 17 weekly wages" shall mean the earnings of the injured employee in the
- 18 employment in which the employee was working at the time of the last
- 19 exposure during the period of fifty-two (52) weeks immediately
- 20 preceding the last day of the last exposure divided by fifty-two (52). If
- 21 the employee lost seven (7) or more calendar days during the period,
- 22 although not in the same week, then the earnings for the remainder of
- 23 the fifty-two (52) weeks shall be divided by the number of weeks and
- 24 parts thereof remaining after the time lost has been deducted. Where
- 25 the employment prior to the last day of the last exposure extended over
- 26 a period of less than fifty-two (52) weeks, the method of dividing the
- 27 earnings during that period by the number of weeks and parts thereof
- 28 during which the employee earned wages shall be followed if results
- 29 just and fair to both parties will be obtained. Where by reason of the
- 30 shortness of the time during which the employee has been in the
- 31 employment of the employer or of the casual nature or terms of the
- 32 employment it is impracticable to compute the average weekly wages
- 33 as above defined, regard shall be had to the average weekly amount
- 34 which, during the fifty-two (52) weeks previous to the last day of the
- 35 last exposure, was being earned by a person in the same grade
- 36 employed at the same work by the same employer, or if there is no
- 37 person so employed, by a person in the same grade employed in that
- 38 same class of employment in the same district. Whenever allowances

1 of any character are made to an employee in lieu of wages or a
2 specified part of the wage contract, they shall be deemed a part of the
3 employee's earnings.

4 (v) For all disabilities occurring on and after July 1, 1985, "average
5 weekly wages" means the earnings of the injured employee during the
6 period of fifty-two (52) weeks immediately preceding the disability
7 divided by fifty-two (52). If the employee lost seven (7) or more
8 calendar days during the period, although not in the same week, then
9 the earnings for the remainder of the fifty-two (52) weeks shall be
10 divided by the number of weeks and parts of weeks remaining after the
11 time lost has been deducted. If employment before the date of disability
12 extended over a period of less than fifty-two (52) weeks, the method of
13 dividing the earnings during that period by the number of weeks and
14 parts of weeks during which the employee earned wages shall be
15 followed if results just and fair to both parties will be obtained. If by
16 reason of the shortness of the time during which the employee has been
17 in the employment of the employer or of the casual nature or terms of
18 the employment it is impracticable to compute the average weekly
19 wages for the employee, the employee's average weekly wages shall be
20 considered to be the average weekly amount that, during the fifty-two
21 (52) weeks before the date of disability, was being earned by a person
22 in the same grade employed at the same work by the same employer or,
23 if there is no person so employed, by a person in the same grade
24 employed in that same class of employment in the same district.
25 Whenever allowances of any character are made to an employee
26 instead of wages or a specified part of the wage contract, they shall be
27 considered a part of the employee's earnings.

28 (w) The provisions of this article may not be construed to result in
29 an award of benefits in which the number of weeks paid or to be paid
30 for temporary total disability, temporary partial disability, or permanent
31 total disability benefits combined exceeds five hundred (500) weeks.
32 This section shall not be construed to prevent a person from applying
33 for an award under IC 22-3-3-13. However, in case of permanent total
34 disability resulting from a disablement occurring on or after January 1,
35 1998, the minimum total benefit shall not be less than seventy-five
36 thousand dollars (\$75,000).

37 SECTION 9. IC 22-3-7-20 IS AMENDED TO READ AS
38 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 20. (a) After

1 disablement and during the period of claimed resulting disability or
2 impairment, the employee, if so requested by the employee's employer
3 or ordered by the worker's compensation board, shall submit to an
4 examination at reasonable times and places by a duly qualified
5 physician or surgeon designated and paid by the employer or by order
6 of the board. The employee shall have the right to have present at any
7 such examination any duly qualified physician or surgeon provided and
8 paid for by the employee. No fact communicated to or otherwise
9 learned by any physician or surgeon who may have attended or
10 examined the employee, or who may have been present at any
11 examination, shall be privileged either in the hearings provided for in
12 this chapter, or in any action at law brought to recover damages against
13 any employer who is subject to the compensation provisions of this
14 chapter. If the employee refuses to submit to, or in any way obstructs
15 the examinations, the employee's right to compensation and right to
16 take or prosecute any proceedings under this chapter shall be
17 suspended until the refusal or obstruction ceases. No compensation
18 shall at any time be payable for the period of suspension unless in the
19 opinion of the board, the circumstances justified the refusal or
20 obstruction. The employee must be served with a notice setting forth
21 the consequences of the refusal under this subsection. The notice must
22 be in a form prescribed by the worker's compensation board.

23 (b) Any employer requesting an examination of any employee
24 residing within Indiana shall pay, in advance of the time fixed for the
25 examination, sufficient money to defray the necessary expenses of
26 travel by the most convenient means to and from the place of
27 examination, and the cost of meals and lodging necessary during the
28 travel. If the method of travel is by automobile, the mileage rate to be
29 paid by the employer shall be the rate as is then currently being paid by
30 the state to its employees under the state travel policies and procedures
31 established by the department of administration and approved by the
32 state budget agency. If the examination or travel to or from the place of
33 examination causes any loss of working time on the part of the
34 employee, the employer shall reimburse the employee for the loss of
35 wages upon the basis of such employee's average daily wage.

36 (c) When any employee injured in Indiana moves outside Indiana,
37 the travel expense and the cost of meals and lodging necessary during
38 the travel, payable under this section, shall be paid from the point in

1 Indiana nearest to the employee's then residence to the place of
2 examination. No travel and other expense shall be paid for any travel
3 and other expense required outside Indiana.

4 (d) A duly qualified physician or surgeon provided and paid for by
5 the employee may be present at an examination, if the employee so
6 desires. In all cases, where the examination is made by a physician or
7 surgeon engaged by the employer and the disabled or injured employee
8 has no physician or surgeon present at the examination, it shall be the
9 duty of the physician or surgeon making the examination to deliver to
10 the injured employee, or the employee's representative, a statement in
11 writing of the conditions evidenced by such examination. The
12 statement shall disclose all facts that are reported by the physician or
13 surgeon to the employer. This statement shall be furnished to the
14 employee or the employee's representative as soon as practicable, but
15 not later than thirty (30) days before the time the case is set for hearing.
16 The statement may be submitted by either party as evidence by that
17 physician or surgeon at a hearing before the worker's compensation
18 board if the statement meets the requirements of subsection ~~(f)~~ (g). If
19 the physician or surgeon fails or refuses to furnish the employee or the
20 employee's representative with such statement thirty (30) days before
21 the hearing, then the statement may not be submitted as evidence, and
22 the physician shall not be permitted to testify before the worker's
23 compensation board as to any facts learned in the examination. All of
24 the requirements of this subsection apply to all subsequent
25 examinations requested by the employer.

26 **(e) No representative of the employer or insurance carrier,**
27 **including case managers or rehabilitation nurses, may be present**
28 **at any examination of an employee with an occupational disease**
29 **without the express written consent of the employee and the**
30 **treating medical personnel. At the time of any medical examination**
31 **that a representative of the employer wishes to attend, the**
32 **representative of the employer shall inform the employee with an**
33 **occupational disease and treating medical personnel that their**
34 **written consent is required before the attendance of the employer's**
35 **representative. The employee's compensation and benefits may not**
36 **be jeopardized in any way due to the employer's failure or refusal**
37 **to complete a written waiver allowing the attendance of the**
38 **employer's representative. The employer's representative may not**

1 **in any way cause the employee to believe that the employee's**
 2 **compensation and benefits will be terminated if the employee fails**
 3 **or refuses to complete a written waiver allowing the attendance of**
 4 **the employer's representative. The written waivers shall be**
 5 **executed on forms prescribed by the board.**

6 ~~(e)~~ (f) In all cases where an examination of an employee is made by
 7 a physician or surgeon engaged by the employee, and the employer has
 8 no physician or surgeon present at such examination, it shall be the
 9 duty of the physician or surgeon making the examination to deliver to
 10 the employer or the employer's representative a statement in writing of
 11 the conditions evidenced by such examination. The statement shall
 12 disclose all the facts that are reported by such physician or surgeon to
 13 the employee. The statement shall be furnished to the employer or the
 14 employer's representative as soon as practicable, but not later than
 15 thirty (30) days before the time the case is set for hearing. The
 16 statement may be submitted by either party as evidence by that
 17 physician or surgeon at a hearing before the worker's compensation
 18 board if the statement meets the requirements of subsection ~~(f)~~ (g). If
 19 the physician or surgeon fails or refuses to furnish the employer or the
 20 employer's representative with such statement thirty (30) days before
 21 the hearing, then the statement may not be submitted as evidence, and
 22 the physician or surgeon shall not be permitted to testify before the
 23 worker's compensation board as to any facts learned in such
 24 examination. All of the requirements of this subsection apply to all
 25 subsequent examinations made by a physician or surgeon engaged by
 26 the employee.

27 ~~(f)~~ (g) All statements of physicians or surgeons required by this
 28 section, whether those engaged by employee or employer, shall contain
 29 the following information:

- 30 (1) The history of the injury, or claimed injury, as given by the
- 31 patient.
- 32 (2) The diagnosis of the physician or surgeon concerning the
- 33 patient's physical or mental condition.
- 34 (3) The opinion of the physician or surgeon concerning the causal
- 35 relationship, if any, between the injury and the patient's physical
- 36 or mental condition, including the physician's or surgeon's reasons
- 37 for the opinion.
- 38 (4) The opinion of the physician or surgeon concerning whether

1 the injury or claimed injury resulted in a disability or impairment
 2 and, if so, the opinion of the physician or surgeon concerning the
 3 extent of the disability or impairment and the reasons for the
 4 opinion.

5 (5) The original signature of the physician or surgeon.

6 Notwithstanding any hearsay objection, the worker's compensation
 7 board shall admit into evidence a statement that meets the requirements
 8 of this subsection unless the statement is ruled inadmissible on other
 9 grounds.

10 ~~(g)~~ (h) Delivery of any statement required by this section may be
 11 made to the attorney or agent of the employer or employee and such an
 12 action shall be construed as delivery to the employer or employee.

13 ~~(h)~~ (i) Any party may object to a statement on the basis that the
 14 statement does not meet the requirements of subsection ~~(e)~~ (f). The
 15 objecting party must give written notice to the party providing the
 16 statement and specify the basis for the objection. Notice of the
 17 objection must be given no later than twenty (20) days before the
 18 hearing. Failure to object as provided in this subsection precludes any
 19 further objection as to the adequacy of the statement under subsection
 20 ~~(f)~~ (g).

21 ~~(i)~~ (j) The employer upon proper application, or the worker's
 22 compensation board, shall have the right in any case of death to require
 23 an autopsy at the expense of the party requesting the same. If, after a
 24 hearing, the board orders an autopsy and the autopsy is refused by the
 25 surviving spouse or next of kin, in this event any claim for
 26 compensation on account of the death shall be suspended and abated
 27 during the refusal. The surviving spouse or dependent must be served
 28 with a notice setting forth the consequences of the refusal under this
 29 subsection. The notice must be in a form prescribed by the worker's
 30 compensation board. No autopsy, except one performed by or on the
 31 authority or order of the coroner in discharge of the coroner's duties,
 32 shall be held in any case by any person without notice first being given
 33 to the surviving spouse or next of kin, if they reside in Indiana or their
 34 whereabouts can reasonably be ascertained, of the time and place
 35 thereof, and reasonable time and opportunity shall be given such
 36 surviving spouse or next of kin to have a representative or
 37 representatives present to witness same. However, if such notice is not
 38 given, all evidence obtained by the autopsy shall be suspended on

- 1 motion duly made to the board."
- 2 Renumber all SECTIONS consecutively.
(Reference is to HB 1413 as introduced.)

and when so amended that said bill do pass.

Representative Liggett